



**Colorado
Legislative
Council
Staff**

SB16-131

FISCAL NOTE

FISCAL IMPACT: State Local Statutory Public Entity Conditional No Fiscal Impact

Drafting Number: LLS 16-0873	Date: February 25, 2016
Prime Sponsor(s): Sen. Tate	Bill Status: Senate Judiciary
Rep. Pabon; Willett	Fiscal Analyst: Kerry White (303-866-3469)

BILL TOPIC: OVERSEEING FIDUCIARIES' MANAGEMENT OF ASSETS

Fiscal Impact Summary	FY 2016-2017	FY 2017-2018
State Revenue		
State Expenditures	Potential increase.	
Appropriation Required: None.		
Future Year Impacts: Ongoing potential increase in state expenditures.		

Summary of Legislation

This bill reorganizes and updates the probate code and laws governing the management of an individual's assets. It clarifies when an unprobated will may be used as part of a proceeding and that judgment and decree will convey legal title as opposed to equitable title. It also enacted portions of Section 5 of the "Uniform Powers of Appointment Act."

Suspending the authority of a fiduciary. The bill clarifies that once a petition to remove a fiduciary is filed, the authority of that fiduciary is suspended immediately. Once the fiduciary receives notice of proceedings concerning his or her removal, the fiduciary may not pay compensation or attorneys fees or costs out of the estate without a court order.

Right to an attorney. Under the bill, an adult ward or protected person has the right to be represented by a lawyer of his or her choosing, to be paid for at the expense of that person's estate. If the court finds that the person is not capable of providing informed consent to choose an attorney, it is required to appoint a guardian ad litem and, if it determines the person needs representation, it is also required to appoint an attorney. Any appointed attorney is to be provided access to all information related to the proceedings, including immediate access to medical records and information.

State Expenditures

Overall, this bill may increase workload and costs in the Judicial Department by a minimal amount beginning in FY 2016-17. Under current law, judges can and do appoint attorneys and guardians ad litem at any stage of proceedings. At present, the majority of these appointments are

for pre-adjudication matters. To the extent that the clarifications under SB16-131 cause new appointments of attorneys or guardians ad litem or appearances in court for post-adjudication matters, costs and workload will increase. As of this writing, these increases are not expected to require an increase in appropriations. Should additional appropriations be required in the future, the department can request them through the annual budget process.

Effective Date

The bill takes effect August 10, 2016, if the General Assembly adjourns on May 11, 2016, as scheduled, and no referendum petition is filed.

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